

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

**No. CV 11-0037 MV/LAM
CR 03-0477 MV**

ERIC LAMONT JOHNSON,

Defendant/Movant.

ORDER

THIS MATTER is before the Court upon Defendant/Movant's *Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* (CV Doc. 1; CR Doc. 57), and *Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915* (CV Doc. 2). It appears from the record that Defendant/Movant has previously been found indigent (CR Doc. 236), and thus his motion to proceed *in forma pauperis* is moot. Pursuant to Rule 4 of the Rules Governing Section 2255 Proceedings for the United States District Courts, the Court will order the United States to answer Defendant/Movant's motion.

IT IS THEREFORE ORDERED that Defendant/Movant's *Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915* (CV Doc. 2) is **DENIED** as moot;

IT IS FURTHER ORDERED that the Clerk is directed to forward to the United States of Attorney a copy of Defendant/Movant's *Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* (CV Doc. 1; CR Doc. 57) and supporting papers and exhibits, if any, together with a copy of this order.

IT IS FURTHER ORDERED that the United States answer Defendant/Movant's ***Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (CV Doc. 1; CR Doc. 57)*** within twenty-three days of entry of this order.

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE